

REPORT - PLANNING COMMISSION MEETING
September 12, 2002

Project Name and Number: Saddle Rack ZTA (PLN 2002-00317)

Applicant: Gary Robinson

Proposal: To consider a Zoning Text Amendment to modify Article 15 I-R Restricted Industrial District, Section 8-21503.1.(f) and Article 16 G-I General Industrial District, Section 8-21603.(j) of the Fremont Municipal Code to allow a total of two nightclubs, subject to Conditional Use Permit, in the commercial/industrial overlay shown on the general plan land use map citywide.

Recommended Action: Recommend to City Council

Location: Citywide

Assessor Parcel Number: Citywide

Area: N/A

Owner: N/A

Agent of Applicant: Rob Langan, Devcon Construction

Consultant(s): Steve Cowles, Devcon Construction

Environmental Review: This project is categorically exempt from CEQA review per Section 15061(b)(3), because the project has no potential for causing a significant effect on the environment. The project would allow otherwise permitted uses in smaller structures in the I-R Restricted Industrial and G-I General Industrial zoning districts.

Existing General Plan: Restricted Industrial; General Industrial; Commercial Industrial Overlay

Existing Zoning: I-R Restricted Industrial District; G-I General Industrial District

Existing Land Use: Variety of Industrial uses

Public Hearing Notice: Public hearing notification is applicable. Because the Zoning Text Amendment is Citywide, a notice of public hearing display advertisement was delivered to The Argus on August 27, 2002 to be published September 2, 2002. A Public Hearing Notice was delivered to The Argus on August 28, 2002 to be published by September 2, 2002.

Executive Summary: The applicant has proposed to modify Article 15 I-R Restricted Industrial District, Section 8-21503.1. (f) and Article 16 G-I General Industrial District, Section 8-21603. (j) of the Fremont Municipal Code to allow a total of two nightclubs or dance clubs, subject to Conditional Use Permit, in the commercial/industrial overlay area shown on the general plan land use map citywide. The proposed amendment would allow such uses in the commercial/industrial overlay but not require the use occupy at least fifty thousand square feet or be located in a shopping center with a total leasable area of at least one hundred fifty thousand square feet as currently required.

Background and Previous Actions: On October 3, 2000 City Council approved a zoning text amendment regarding late night and/or amusement uses. The zoning text amendment ZT-99-4 addressed the regulation of late night and amusement uses throughout the commercial and industrial districts. The various components of the text amendment include definitions of the uses. The amendment allowed nightclubs and dance clubs in I-R Restricted Industrial District

and the G-I General Industrial District, subject to Conditional Use Permit, in the commercial/industrial overlay shown on the general plan land use map citywide. The commercial/industrial overlay allows additional retail and amusement uses if the use occupies at least fifty thousand square feet or is located in a shopping center with a total leasable area of at least one hundred fifty thousand square feet. Additionally the use must be oriented to the regional market; convenient access from freeways is available; the proposed use would be compatible with existing industrial uses and would not impede future industrial development. The purpose of the Conditional Use Permit is to allow a proper integration into the community of uses which may only be suitable in specific locations in a zoning district, or only if such uses are designed in a particular manner on the site, or are subject to specific conditions. The Conditional Use Permit determination by Planning Commission is subject to appeal to the City Council.

Project Description: The proposed ZTA would allow nightclubs and dance clubs in the I-R and G-I districts but not require the club occupy a space at least fifty thousand square feet in size or be located in a shopping center with a total leasable area of at least one hundred fifty thousand square feet. The zoning text amendment would also limit the number to a total of two nightclubs or dance clubs in those zoning districts. The applicant is interested in operating a nightclub in an existing industrial building and will proceed with a Conditional Use Permit if the proposed zoning text amendment is adopted.

Project Analysis:

General Plan Conformance: The zoning text amendment will affect all Restricted and General Industrial lands in the commercial/industrial overlay shown on the general plan land use map citywide. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

Fundamental Goal F-8	A diversity of residential, recreational, cultural, employment and shopping opportunities.
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Policy LU 3.3: Commercial uses providing necessary services for industrial uses and workers and large-scale regional retail and amusement uses may be allowed in industrially designated areas, with the exception of "Light Industrial". All commercial uses are subject to discretionary review to ensure the use can be served by the existing or planned roadway infrastructure and would not have a significant adverse impact on existing industrial uses in regards to parking requirements, traffic volume and other conflicts in operations. Appropriate non-industrial uses include large-scale regionally oriented retail and amusement uses as well as uses serving industry and employees, such as copying services, branch banks, eating and drinking establishments, convenience shopping and gas stations.

The proposed zoning text amendment is in conformance with the above goal and policy because the change would allow a diversity of location in the pertinent industrial areas while still requiring the discretionary review of any proposed nightclubs or dance clubs. Proposed nightclubs and dance clubs will be reviewed to ensure the use can be served by the existing or planned roadway infrastructure and would not have a significant adverse impact on existing industrial uses in regards to parking requirements, traffic volume and other conflicts in operations.

Zoning: The applicant has proposed to modify Article 15 I-R Restricted Industrial District, Section 8-21503.1. (f) and Article 16 G-I General Industrial District, Section 8-21603.(j) of the Fremont Municipal Code to allow a total of two nightclubs or dance clubs, subject to Conditional Use Permit, in the commercial/industrial overlay shown on the general plan land use map citywide. The proposed amendment would allow such uses in the commercial/industrial overlay but not require the use occupy at least fifty thousand square feet or be located in a shopping center with a total leasable area of at least one hundred fifty thousand square feet. The fifty thousand square foot limit was originally intended as a way to allow high volume retailers such as Home Depot or Costco to locate in industrial areas. This was later incorporated into the commercial/industrial overlay along with the concept of a shopping center with a total leasable area of at least one hundred fifty thousand square feet. The shopping center allows smaller retail businesses to locate with an "anchor" store. The Home Depot/REI center located at Fremont Boulevard and Automall Parkway is an example of this. However, that center is one of the few instances of such a shopping center development in industrially zoned property.

The other way a large-scale regionally oriented amusement use could locate in the industrial districts is to occupy a fifty thousand square foot space. Fifty thousand square feet would be a very large nightclub and probably larger in scale than most regionally oriented nightclubs. For example, the Saddle Rack operated in San Jose for 25 years in a space approximately 22,000 square feet in size and now wishes to locate in a approximately 15,000 square foot space. Other facilities in Fremont that can accommodate large numbers of people are banquet halls. The Marriott Hotel in Fremont is approximately 16,000 square feet. The Flamingo Palace is approximately 13,000 square feet in size. The proposed change in the ordinance would allow regionally oriented nightclubs to locate in industrial areas that may be more suitable for such uses. Other cities have found nightclubs a compatible use in industrial areas. Industrial areas tend to have less traffic congestion at night. There are fewer neighbors that might be disturbed by traffic and noise at closing. There is a greater separation from residential uses. The Conditional Use Permit will allow for appropriate conditions to ensure the use does not become a nuisance.

The other change the proposed ordinance proposes is to limit the number to a total of two nightclubs or dance clubs in the I-R Restricted Industrial and G-I General Industrial Districts. Staff had some initial concerns regarding possible impacts on City services, particularly Police services, of allowing large-scale regionally oriented nightclubs as stand alone businesses. The Police Department has indicated that a maximum of two such facilities could be allowed without a significant adverse impact on Police services citywide.

Environmental Analysis: This project is categorically exempt from CEQA review per Section 15061(b)(3), because the project has no potential for causing a significant effect on the environment. The project would allow otherwise permitted uses in smaller structures in the I-R Restricted Industrial and G-I General Industrial zoning districts.

Response from Agencies and Organizations: None

Enclosures: None

Exhibits: Exhibit "A" (Zoning Text Amendment)

Recommended Actions:

1. Hold public hearing.
2. Recommend the City Council find the Zoning Text Amendment is categorically exempt from CEQA review per Section 15061(b)(3), because the project has no potential for causing a significant effect on the environment.
3. Find PN2002-00317 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use Chapter as enumerated within the staff report.
4. Recommend PLN2002-00317 to the City Council in conformance with Exhibit "A" (Zoning Text Amendment).

Exhibit "A"
Saddle Rack Zoning Text Amendment
PLN2002-00317

Article 15 I-R Restricted Industrial District

Sec. 8-21503.1. Conditional uses: Planning commission as reviewing agency.

The following uses may be permitted with a conditional use permit, provided that all other requirements of this chapter are met. The procedure for a conditional use permit shall be as outlined in Article 25 of this chapter:

(a) Religious facilities.^{1,2,3,4}

(b) Shelter for the homeless, permanent,^{1,3} subject to the regulations set forth in Article 21.3 of this chapter, except in an (F-W) or (F) overlay district.

(c) Shelter for the homeless, temporary,^{1,3} accessory to a public or quasi-public use, subject to the regulations set forth in Article 21.3 of this chapter, except in an (F-W) or (F) overlay district.

(d) Public and quasi-public uses,¹ except residential.

(e) Warehouse facilities with retail and wholesale ^{1,3} trade when the use occupies at least fifty thousand square feet of floor area, other than warehouse facilities allowed under section 8-21504.

(f) Within the commercial/industrial overlay shown on the general plan land use map, the following additional retail and amusement uses may be allowed where the planning commission finds: the use occupies at least fifty thousand square feet or is located in a shopping center with a total leasable area of at least one hundred fifty thousand square feet; the use is oriented to the regional market; convenient access from freeways is available; the proposed use would be compatible with existing industrial uses and would not impede future industrial development:

- (1) Hardware stores;²
- (2) General merchandise stores;²
- (3) Apparel and accessory stores;²
- (4) Home furniture, furnishings and equipment stores;²
- (5) Drug stores;²
- (6) Miscellaneous shopping goods stores;²
- (7) Where accessory to or in conjunction with the above retail uses: motion picture theaters,² except drive-in¹ and adult motion picture theaters,¹ amusement arcades,^{1,3,4} and amusement parks;²
- ~~(8) Nightclubs;¹~~
- ~~(9) Dance clubs and discotheques;¹~~
- (8) Nightclubs¹, dance clubs and discotheques¹ and limited to a combined total of two such facilities in the I-R Restricted Industrial and G-I General Industrial Districts but not require the use occupy at least fifty thousand square feet or be located in a shopping center with a total leasable area of at least one hundred fifty thousand square feet.**

- (g) Amusement or video game arcade;
- (h) Skating rink if open after midnight;
- (i) Concert hall¹ if one hundred seats or more or open after midnight;
- (j) Hotels, full service;¹
- (k) Performing arts theater¹ if one hundred seats or more or open after midnight;
- (l) Dinner theater¹ if one hundred seats or more or open after midnight;
- (m) Banquet hall¹ if located on an arterial street;
- (n) Exhibition or conference halls¹ if located on an arterial street;

(o) Any other use which the planning commission finds is similar in nature, function or operation to conditional uses allowed within the district. The request for such a determination shall be submitted as a "finding application" to the planning commission pursuant to the requirements set forth in Article 25.2 of this chapter.

(Ord. No. 1885, § 22, 8-22-89; Ord. No. 1989, § 5, 11-26-91; Ord. No. 2045, § 98, 9-21-93; Ord. No. 2054, § 1, 12-14-93; Ord. No. 2081, § 17, 7-26-94; Ord. No. 2084, § 1, 9-6-94; Ord. No. 2407, § 22, 10-24-00; Ord. No. 2423, § 10, 4-10-01.)

Article 16 G-I General Industrial District

Sec. 8-21603. Conditional uses: Planning commission as reviewing agency.⁴

The following uses may be permitted with a conditional use permit, provided all other requirements of this chapter are met. The procedure for a conditional use permit shall be as outlined in Article 25 of this chapter:

- (a) Manufacturing as follows:
 - (1) Meat packing plants;²
 - (2) Poultry dressing plants;²
 - (3) Canned fruit and vegetables, canned and cured fish and seafood and canned meats;²
 - (4) Dog, cat and other pet food which includes the slaughter of animals for pet food;²
 - (5) Cane sugar refining;²
 - (6) Beet sugar;²
 - (7) Logging camps and logging contractors;²
 - (8) Sawmills and planing mills, general;²
 - (9) Pulp mills, paper mills and paperboard mills;²
 - (10) Petroleum refining and related industries;²
 - (11) Cement, hydraulic;²
 - (12) Concrete, gypsum and plaster products;²
 - (13) Blast furnaces, steelworks and rolling and finishing mills;²
 - (14) Iron and steel foundries;²

- (15) Primary smelting and refining of nonferrous metals;²
- (16) Nonferrous foundries;²
- (17) Recovery of iron ore from open hearth slag;²
- (18) Secondary smelting and refining of nonferrous metals;²
- (19) Rolling, drawing and extruding of nonferrous metals;²
- (20) Miscellaneous primary metal products.²

(b) Transportation by air.²

(c) Wholesale trade of scrap and waste materials.²

(d) Motor vehicle wrecking yards.

(e) Shelter for the homeless, permanent,^{1,3} subject to the regulations set forth in Article 21.3 of this chapter, except in an (F-W) or (F) overlay district.

(f) Shelter for the homeless, temporary,^{1,3} accessory to a public or quasi-public use, subject to the regulations set forth in Article 21.3 of this chapter, except in an (F-W) or (F) overlay district.

(g) Religious facilities.^{1,2,3,4}

(h) Warehouse facilities with retail and wholesale trade^{1,3} when the use occupies at least fifty thousand square feet of floor area.

(i) Public and quasi-public uses,¹ including golf courses,^{2,3} except residential.

(j) Within the commercial/industrial overlay shown on the general plan land use map, the following additional retail and amusement uses may be allowed where the planning commission finds: the use occupies at least fifty thousand square feet or is located in a shopping center with a total leasable area of at least one hundred fifty thousand square feet; the use is oriented to the regional market; convenient access from freeways is available; the proposed use would be compatible with existing industrial uses and would not impede future industrial development:

- (1) Hardware stores;²
- (2) General merchandise stores;²
- (3) Apparel and accessory stores;²
- (4) Home furniture, furnishings and equipment stores;²
- (5) Drug stores;²
- (6) Miscellaneous shopping goods stores;²
- (7) Where accessory to or in conjunction with the above retail uses: motion picture theaters, except drive-in¹ and adult theaters;²

~~(8) Nightclub;⁴~~

~~(9) Dance club/discotheque;⁴~~

(8) Nightclubs¹, dance clubs and discotheques¹ and limited to a combined total of two such facilities in the I-R Restricted Industrial and G-I General Industrial Districts but not require the use occupy at least fifty thousand square feet or be located in a shopping center with a total leasable area of at least one hundred fifty thousand square feet.

(k) Banquet hall¹ located on an arterial street.

- (l) Exhibition or conference halls¹ located on an arterial street.
- (m) Performing arts theater¹ if one hundred seats or more or open after midnight.
- (n) Dinner theater¹ if one hundred seats or more or open after midnight.
- (o) Concert hall¹ if one hundred seats or more or open after midnight.
- (p) Amusement or video game arcade.
- (q) Skating rink if open after midnight.
- (r) Hotel, full service.¹

(s) Any other use which the planning commission finds is similar in nature, function or operation to conditional uses allowed within the district. The request for such a determination shall be submitted as a "finding application" to the planning commission pursuant to the requirements set forth in Article 25.2 of this chapter.

(Ord. No. 1377, § 3, 5-13-80; Ord. No. 1560, § 11, 6-7-83; Ord. No. 1599, § 2, 4-3-84; Ord. No. 1759, § 81, 1-6-87; Ord. No. 1885, § 23, 8-22-89; Ord. No. 1989, § 6, 11-26-91; Ord. No. 2045, § 99, 9-21-93; Ord. No. 2081, § 20, 7-26-94; Ord. No. 2084, § 2, 9-6-94; Ord. No. 2407, § 24, 10-24-00.)